IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUMMONS FOR JUDGMENT NO.237 OF 2006

IN

SUIT NO.3176 OF 2004

...

Build Craft ...Plaintiff

v/s.

M/s.Baycity Resorts

Pvt.Ltd. & Anr. ...Defendants

...

Mr.B.B.Parekh for the Plaintiff.

Mr.C.S.Balsara for the Defendant No.1.

CORAM: D.K.DESHMUKH, J.

DATED: 16TH AUGUST, 2006

P.C.:

At the out set, the learned Counsel appearing for the

Plaintiff states that the Plaintiff does not press this summons for judgment against the Defendant No.2. He seeks leave of the court to delete the name of Defendant No.2 from the array of Defendant.

2. Defendant No.1 is admittedly served and is represented. No application for leave to defend the suit has been made by the Defendant No.1. In the absence of any application for leave to defend the suit filed by the Defendant No.1 within the period allowed by Order XXXVII of CPC the Plaintiff becomes entitled to judgment.

3. I have heard the learned Counsel for the Plaintiff. So far as the suit claim is concerned, perusal of the document at Exh.E shows that the Defendant No.1 has admitted his liability to pay Rs.35 lakh, which is the suit claim, to the Plaintiff on 22-1-2003. The Plaintiff is claiming interest only from the date of institution of the suit till the date of realisation.

4. Considering the facts and circumstances of the case, in my opinion, interest at the rate of 12% p.a. would be appropriate.

5. Summons for judgment is granted. Suit of the Plaintiff is decreed in terms of prayer clauses of the suit. However, interest shall be payable by the Defendant No.1 on the amount of Rs.35 lakh from the date of the institution of the suit till the date of realisation at the rate 12% p.a. Summons for judgment disposed of. Refund of Court fees as per rules.

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